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October 25, 2004

J. Tyler Carlson
Western Area Power Administration
Desert Southwest Regional Manager
P.O. Box 6457
Phoenix, AZ 85005

**Re: White Mountain Apache Tribe Comments on Proposed GPCP and Parker
Davis Contract Changes**

Dear Mr. Carlson:

Please accept the attached comments on behalf of the White Mountain Apache Tribe regarding the GPCP and contract language changes proposed in conjunction with the extension of Parker-Davis contracts. Although the Tribe is not currently a Parker-Davis Project customer, it is a CRSP customer and also intends to apply for Parker-Davis Project power through the current remarketing effort; as such, the Tribe presumes that changes implemented could very likely affect its interests as a Western Contractor going forward.

Thank you for this opportunity.

Sincerely,

Amy T. Mignella
Special Counsel

The White Mountain Apache Tribe hereby provides comments on the following modifications:

(1) Section 40.2 of the GPCPs

It is unclear if WAPA is proposing to obtain complete liability waivers from customers or if the proposed language is only intended to extend to liability for performance failures relating to the lack of Congressional authorizations. For this reason, the second sentence of the proposed modification should be reworded to read:

“In case such authorization is not received, the Contractor hereby releases the United States from its contractual obligations relating to performance on the obligations for which Contractor has provided funds and from liability associated with such lack of performance. In no event, however, has Contractor waived its right to pursue actions against the Administrator on other legal grounds. Western shall return all funds provided by Contractor for said purpose within thirty (30) days of Contractor’s request.”

(2) Section 12 [X] of the Parker Davis Contract

Section 12 should be modified as follows:

12.2

[Western should establish specific criteria that will trigger intervention by the Administrator. The current wording indicates a completely discretionary process that has created mistrust among Western’s customers and will inevitably create inequities if implemented.]

12.3

“ . . . Western will respond in writing within 30 days of receipt of such notice, indicating whether the Administrator intends to take action.”

12.4

“When the Administrator decides to review Contractor’s status in relation to potential changes as noted paragraphs 12.1 and 12.2, the Administrator will notify the Contractor and offer the Contractor a reasonable opportunity to provide comments and other information on the matter.”

12.5

“ . . . Western will notify the Contractor in writing . . . within 15 days of such determination . . . ”

Additional comment:

Western should generate a provision establishing the criteria upon which it will rely to make a determination that a Contractor’s allocation should be “adjusted” for reasons noted in paragraph 12.2 and to what extent. This added detail will allow customers to better understand the scope of Western’s intentions and ensure greater equity once implemented.